



27 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mark R. Gordon-Lendvay
P.O. Box 101
White Plains, New York 10605

In re Application of	:	
BRUN, Andreas	:	
Application No.: 10/049,454	:	
PCT Application No.: PCT/IB00/01295	:	DECISION ON
International Filing Date: 02 August 2000	:	
Priority Date: 12 August 1999	:	PETITION
Attorney Docket No.: MPF 001	:	
For: SLEEPING BAG	:	UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR § 1.137(b)," filed in the United States Patent and Trademark Office on 09 April 2004, is DISMISSED without prejudice.

BACKGROUND

On 02 August 2000, applicant filed international application number PCT/IB00/01295, claiming priority of an earlier German application, filed on 12 August 1999. The United States of America was designated in the Request. A copy of the international application was transmitted by the International Bureau to the United States Patent and Trademark Office on 22 February 2001. Applicant timely filed a Demand on 02 March 2001, electing the United States of America. Accordingly, the thirty-month period for paying the basic national fee in the United States of America expired at midnight on 12 February 2002.

On 12 February 2002, applicant filed a transmittal letter for national stage entry. Among applicant's transmittal papers were an executed inventor declaration, a translation of the international application, and credit card authorization to pay the basic national stage filing fee of \$445.

On 16 April 2002, applicant was mailed a Notification of Abandonment FORM PCT/DO/EO/909 on the grounds that applicant had failed to pay the requisite national stage fees since applicant's credit card payment had been declined and since applicant had not provided an alternative deposit account for making payment.

On 09 April 2004, applicant filed the instant petition for revival of the application on the grounds of unintentional abandonment, including, *inter alia*, \$440 for basic national stage fees.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed

without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to item (1) above, applicant has stated that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since, as demonstrated below, this petition is not grantable, the requirement of item (1) above is not satisfied.

With regard to item (2) above, applicant has provided \$440 for the required basic national fees. However, the required basic national fee is \$460, and so the requirement of item (2) above is not satisfied.

With regard to item (3) above, applicant has provided the required petition fee, meeting the requirement of item (3) above.

With regard to item (4), a terminal disclaimer is not required as the application was filed after 08 June 1995.

Accordingly, because the requirements of items (1) and (2) above have not been satisfied, all of the requirements under 37 CFR 1.137(b) have not been satisfied, and so the petition is dismissed.

CONCLUSION

Because applicant has failed to satisfy items (1) and (2) above, the petition to revive the abandoned application under 37 CFR 1.137(b) is DISMISSED without prejudice as to National Stage in the United States of America.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone: (703) 308-6162
Facsimile: (703) 308-6459



Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-3659
Facsimile: (703) 308-6459